

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

BOSCAINO COLLISION & TOWING CORP., individually and on behalf of itself and other similarly situated collision repair shops and towing companies located in the City of New York,

Plaintiff,

v.

RUDOLPH J. MEOLA, LAW OFFICE OF RUDOLPH J. MEOLA, and MEOLA LAW FIRM,

Defendants.

CIVIL CASE NO: 23-cv-7510

**DECLARATION OF NICHOLAS A.
DUSTON, ESQ. IN SUPPORT OF
MOTION FOR SANCTIONS PURSUANT
TO 28 U.S.C. § 1927**

I, Nicholas A. Duston, hereby declare as follows:

1. I am an attorney admitted to practice in the State of New York and in the United States District Court for the Southern and Eastern Districts of New York. I am also a member of the law firm of Norris McLaughlin, P.A., attorneys for defendant, Rudolph J. Meola, Esq.¹ I submit this declaration in support of Plaintiff's motion for sanctions pursuant to 28 U.S.C. § 1927.

2. On or about October 27, from approximately 12:30 PM to 1:20 PM, I participated in a call with another attorney at my firm and three attorneys from the Rosen Law Firm: Gary Rosen, Esq.; Jared Rosen, Esq.; and Joseph Noonan, Esq.

3. Mr. Rosen began by providing a settlement demand to settle the EDNY Litigation, which Mr. Rosen later repeated in open court on or about November 17, 2023.

¹ The Complaint is pled as though there are three separate persons (two entities and one individual), but neither entity separately exists; Mr. Meola is the sole proprietor of his law practice.

4. Mr. Rosen then proceeded to rant about his personal animus for Mr. Meola for the remainder of the lengthy 50+ minute call.

5. Mr. Rosen made several disturbing threats that had no bearing on any legitimate offer to settle the EDNY Litigation. These included stating words to the effect of:

- a. What Really “pissed off” BCT and led BCT to instruct Mr. Rosen to file the EDNY Litigation was VW Credit’s refusal to accept BCT’s settlement offer in the VW Litigation;
- b. Because BCT was “pissed off” about the VW Litigation, BCT would not settle the EDNY Litigation unless Mr. Meola convinced VW Credit to take \$5,000 to settle; this was in addition to the settlement demand made at the beginning of the call;
- c. That Mr. Rosen “could easily have named VW Credit and many other” of Mr. Meola’s clients in the EDNY Lawsuit;
- d. That Mr. Rosen did not initially name Mr. Meola’s clients to the EDNY Litigation because he was not “trying to affect Mr. Meola in any negative way,” but he would do so by naming those clients in an amended complaint;
- e. That Mr. Rosen did not “want to hurt” Mr. Meola “with his clients by suing the clients” in the EDNY Litigation, but Mr. Rosen had previously “sued lots of defendants in a RICO case;”
- f. That although Mr. Rosen “did not want to hurt” Mr. Meola, if Mr. Meola did not do as Defendants demanded, then Mr. Rosen’s “hands are going to be tied,” because there was only “so much” he could do;
- g. That if “VW Credit” or “Mercedes”—two of Mr. Meola’s clients—knew about Mr. Meola’s filing of litigation for them in Albany, “they should be a defendant” to be “held accountable” in this Federal lawsuit;
- h. If Mr. Rosen had to “file an amended complaint” it would be “hard to settle after that because there’s going to be too much other stuff in there;” and
- i. That Mr. Boscaino and BCT had been speaking to unspecified other body shops and tow companies about the plan to file a Federal RICO complaint against Mr. Meola and his clients.

6. After that call, we sought relief in this Action and the related VW Litigation pending in Albany County. Once we did so, I received an email from Gary Rosen, Esq.,

threatening to file an ethics complaint against me personally. Attached as **Exhibit 1** is a true and correct copy of an email I received from Gary Rosen, Esq. on or about November 3, 2023 wherein he stated he would “take it up with the grievance committed [sic].”

Dated: New York, NY
November 20, 2023

NORRIS MCLAUGHLIN P.A.
Attorneys for Defendant

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